## REMARKS

Claims 7 and 13 have been amended. Support for the amendments indicated herein may be found at least between line 1 on page 4 and line 17 on page 5 of the specification of the patent application. No new matter has been added. Pursuant to the amendments indicated herein, claims 7-13 are pending in the present application.

Claims 7-13 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the ETSI publication in view of Paratainen (U.S. Patent Application Publication No. 2003/0174645), in view of Trossen (U.S. Patent Application Publication No. 2004/0176103) and further in view of Khan (U.S. Patent No. 6,400,954). Pursuant to the amendments indicated herein, the Examiner's rejections are respectfully traversed.

A finding of obviousness under 35 U.S.C. § 103 requires a determination of the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed subject matter and the prior art, and whether the differences are such that the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. *Graham v. John Deere Co.*, 148 USPQ 459 (U.S. S.Ct. 1966). To determine whether the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made, one should determine whether the prior art reference (or references when combined) teach or suggest all the claim limitations. Furthermore, it is necessary for the Examiner to identify the reason why a person of ordinary skill in the art would have combined the prior art references in the manner set forth in the claims. Moreover, there should be a reasonable expectation of success on the part of a person of ordinary skill in the art.

The Examiner has alleged that the pending claims would have been obvious over a combination of four different references. The combined references discuss different techniques for assigning a service rate to a particular service and some of the references mention multicasting. However, Applicants respectfully submit that none of these references is concerned with rate splitting and none of them describe any techniques that allow different service rates to be assigned to different subscription types based on geographic information or subscriber information. Applicants therefore respectfully submit that the prior art of record does not describe or suggest all the limitations set forth in the pending claims (as amended herein).

Applicants further submit that the Examiner has not provided any reason why a person of ordinary skill in the art would have been motivated to combine and/or modify the cited references to include assigning different service rates to different subscription types based on geographic information or subscriber information for subscribers within a particular cell. To the contrary, Applicants respectfully submit that the only teaching for the entirety of the claimed subject matter is found in the present application. Applicants therefore respectfully submit that the Examiner is using the present application as a roadmap for selecting and combining elements in the four disparate references. Applicants respectfully submit that this is an impermissible use of hindsight reasoning.

For at least the aforementioned reasons, Applicants respectfully submit that the pending claims (as amended herein) would not have been obvious over the prior art of record. Applicants respectfully request that the Examiner's rejections of claims 7-13 under 35 U.S.C. § 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the

undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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/MARK W. SINCELL/
Mark W. Sincell, Ph.D.
Reg. No. 52,226
Williams Morgan & Amerson, P.C.
10333 Richmond Avenue, Suite 1100
Houston, TX 77042
(713) 934-7000
(713) 934-7011 (Fax)

AGENT FOR APPLICANTS